

## **General Terms and Conditions**

### **§ 1 General matters, applicability**

- (1) The following General Terms and Conditions of anemos Gesellschaft für Umweltmeteorologie GmbH, hereinafter referred to as «anemos GmbH», shall apply to each and any agreement and performance between anemos GmbH and the clients or customers thereof. anemos GmbH shall perform only in accordance with these terms and conditions.
- (2) Any conflicting terms or conditions of the client or customer are explicitly disclaimed for the whole of the commercial relationship. Divergent provisions in individual contracts or offers by anemos GmbH shall have priority over the present General Terms and Conditions only for the individual transaction.
- (3) All agreements entered into between anemos GmbH and the customer or client with the purpose of fulfilling the contract shall be set down in writing in the contract. Any additional agreements subsidiary to our offers and confirmations as well as any agreements with the employees of anemos GmbH shall require written confirmation by anemos GmbH to be valid.

### **§ 2 Offers, prices, scope of service**

- (1) Our offers are without engagement or obligation and subject to change without notice.
- (2) Our prices do not include the statutory VAT, which will be shown separately on the bill as required by law on the day of invoicing. Changes of any taxes, duties and fees on the services offered by anemos GmbH may be billed by us to the customer or client any time beginning with the date of change. The customer can place an order in any of the following forms: by mail, by fax, by email. After reception of the order, the customer shall receive a confirmation of the order by email, fax or mail.
- (3) anemos GmbH shall be free to use, in order to provide and achieve performance and after consultation with the customer, based on technological advances or scientific discoveries, newer or other technologies, systems, procedures or standards than initially offered. Moreover, anemos GmbH reserves the right to extend, modify or improve performance insofar as such changes are acceptable to the customer, considering the interests of anemos GmbH, and the customer has agreed to this extension, modification or improvement. This shall also apply in case of legal amendments or alterations. The customer shall be immediately notified of changes, if there should be any.
- (4) The customer shall create all conditions required for swift and smooth performance by anemos GmbH. All necessary information or documents must be provided to anemos GmbH in due time for performing the tasks and activities of anemos GmbH. anemos GmbH shall maintain confidentiality with regard to all information and documents provided by the customer.

### **§ 3 Terms of payment, right to retention, set-off, cession**

- (1) The remuneration according to the invoices presented by anemos GmbH shall be due without deduction upon performance and invoicing. In case of non-payment of the invoice, the customer shall automatically be in arrears 14 days after the due date.
- (2) Cash discount shall require a special agreement in writing.
- (3) In case of any delay in payment, anemos GmbH shall be entitled to demand interest on arrears amounting to the statutory interest rate. The information or service shall remain property of anemos GmbH until complete payment.
- (4) The customer shall have a right to set-off only if his counter-claims have been established in court, are undisputed or have been acknowledged by anemos GmbH. Moreover, he shall have the right to retention only as far as his counter-claim is based upon the same contractual relationship. Claims to anemos GmbH may be ceded only with the explicit written consent of anemos GmbH.
- (5) In deviation from these terms of payment, instalment and/or advance payment may be agreed upon by separate written agreement upon placement of the order.

#### **§ 4 Copyright, right to use, treatment of data**

- (1) The legal right to intellectual property, in particular the copyright of anemos GmbH to their works is indispensable. The customer shall make sure the products by anemos GmbH are used only as agreed individually, and treat all data and other findings which have become known to him as strictly confidential unless they are publicly accessible. Any use exceeding that agreed upon contractually, in particular any commercialisation or divulging of data to any third party, shall be permissible only with the explicit written permission of anemos GmbH.
- (2) For the purchase of the wind data from the anemos wind atlases, the Terms of Use of anemos GmbH shall be signed with legally binding effect.
- (3) All data and information which anemos GmbH receives from the customer or from parties not-involved, respectively achieves through the work on the ordered services will be treated confidential. Data, information or insights will not be published without customer's acceptance unless a statutory obligation exists. In this case the customer will be notified about the shared information if possible.
- (4) The details about the collection and processing of customers' personal data according to the General Data Protection Regulation (GDPR) are described into the "data privacy statement of anemos Gesellschaft für Umweltmeteorologie mbH" which can be retrieved i.a. from the web page [www.anemos.de](http://www.anemos.de), subitem Privacy Policy.

#### **§ 5 Liability, defect claims**

- (1) anemos GmbH shall not be liable for slightly negligent breaches of contractual obligations, insofar as no guarantees or obligations essential to the contract are infringed and the breach does not constitute any claims for damages for injury of life, body or health nor any claims according to the Product Liability Act.
- (2) anemos GmbH shall not be held responsible for delays in performance caused by force majeure or by incidents making performance by anemos GmbH significantly more difficult or impossible, in particular strike, lockout, governmental orders, failure or disturbance of communications networks etc., also if occurring at suppliers or contractors of anemos GmbH or their sub-suppliers or subcontractors and not predictable upon signing of the contract, even if any dates or terms were contractually fixed. They shall entitle anemos GmbH to defer performance for the duration of the hindrance.
- (3) Insofar as anemos GmbH is held liable for negligence, the extent of the liability shall be limited to the damage predictable and characteristic for the contract.
- (4) Insofar as liability is disclaimed or limited, this shall also apply to the liability of legal representatives, employees and persons whom anemos GmbH use to perform their obligations.
- (5) anemos GmbH has a professional indemnity insurance, proof whereof can be furnished upon request. Direct liability for damage to property shall be assumed only in cases where the insurance company does not grant indemnification. In case of limited indemnification by the insurance company, anemos GmbH shall be held liable only for the damage exceeding the indemnification.
- (6) Defect claims shall lapse 12 months after performance.
- (7) Any liability exceeding the provisions of the preceding sections is disclaimed without regard to legal succession relating to the claim. This shall apply in particular to claims based upon culpa in contrahendo (§§ 311 and 241 II of the German Civil Code), to claims founded upon any other breach of duty and to claims in tort as defined in § 823 of the German Civil Code. This limitation shall also apply insofar as the client demands reimbursement of futile expenses in lieu of a claim for compensation of damage.

#### **§ 6 Place of performance, venue, applicable law**

- (1) For all obligations arising from or related to a contractual or commercial relationship in business transactions, the place of performance shall be the registered office location of anemos GmbH in D-21391 Reppenstedt. For settling any possible dispute, including any dispute relating to the question of existence or non-existence of a contractual relationship, the court of law having jurisdiction *ratione materiae* and *ratione loci* at the location of anemos GmbH shall be exclusively competent. However, anemos GmbH shall have the right to sue the client also at any other legal venue.

- (2) German law shall be applicable to performance of the order and all claims and obligations arising from the order or related thereto. Any application of the United Nations Convention on Contracts for the International Sale of Goods is explicitly disclaimed.
- (3) anemos GmbH is ready to participate in a dispute settlement procedure before a consumer arbitration office (§§ 36, 37 VSBG).

#### **§ 7 Severability clause**

If any provision pertaining to these General Terms and Conditions should be found to be or become invalid, ineffective or unenforceable, the validity of all the other provisions shall remain unaffected. The invalid, ineffective or unenforceable provision shall be replaced with another provision which shall be economically and legally closest to the intent of the Parties upon conclusion of the original provision. This shall also apply to contractual gaps, if there should be any.